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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/550,983	04/17/2000	Joseph Chadwick Kinney		1828

7590 09/08/2003

John Wiley Horton
PENNINGTON, MOORE, WILKINSON, BELL & DUNBAR, P.A.
Post Office Drawer 10095
Tallahassee, FL 32302-2095

EXAMINER

GOODWIN, JEANNE M

ART UNIT	PAPER NUMBER
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2841

DATE MAILED: 09/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/550,983

Applicant(s)

KINNEY, JOSEPH CHADWICK

Examiner

Jeanne-Marguerite Goodwin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1 and 2 are finally rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,332,135 to Fletcher [hereinafter Fletcher].

Fletcher discloses in Figs. 1 and 2 an apparatus for protecting watches comprising a circular band/belt portions 18/28 forming an inner surface and an outer surface with the inner surface being proximate the user's wrist and the outer surface being distal to the user's wrist, having an upper portion and a lower portion, wherein the lower portion is transected by an adjustment break 22/30 which allows the diameter of the circular band to be adjusted to accommodate variation in the diameter of the wrist of the user; wherein the upper portion opens into a body cutout passing completely through, having a first end and a second end, with the body cutout being oriented transverse to the central axis of said wrist of said user, and being large enough to allow the passage of the watch body so that the watch body rests on the outer surface; wherein the upper portions opens into a first cutout passing completely through, being positioned near the first end of the body cutout, and being oriented parallel to the central axis of the wrist of the user, and being large enough to allow the passage of the watch band; wherein the upper portion opens into a second band cutout passing completely through, being positioned near the second end of the body cutout, and being oriented parallel to the central axis of the wrist of the user, and being large enough to allow the passage of the watch band, so that the watchband encircles the user's wrist inside of the inner surface of the circular band, yet remains attached to

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the watch body resting on the outer surface of the circular band; and wherein the upper portion further comprises a cover flap 10, attached to the circular band, and positioned to close over the upper portion so that the watch body is sandwiched between the outer surface and the cover flap (see figure below).

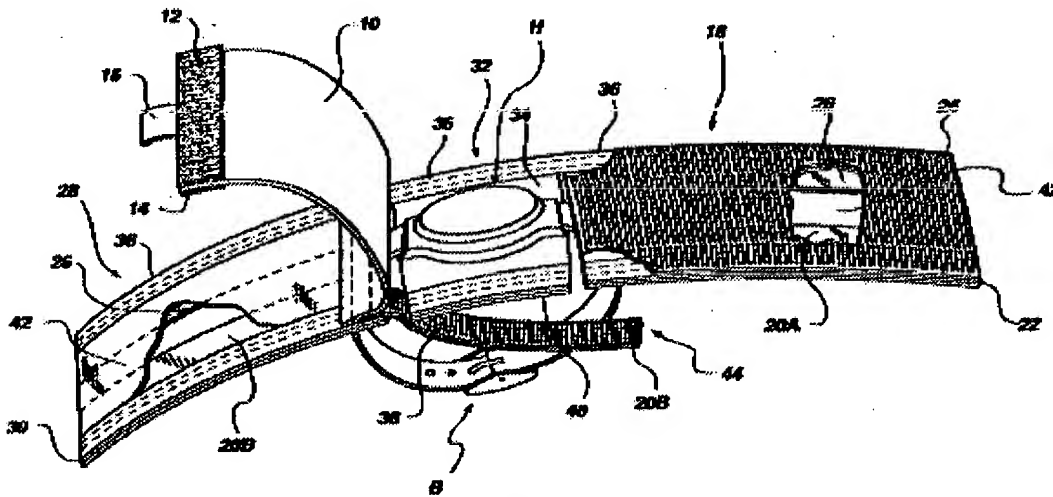


Fig. 1

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 3 and 4 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher in view of US Patent 5,636,775 to Kartsois et al. [hereinafter Kartsois].

Fletcher discloses a device as stated above with regards to claims 1 and 2. Fletcher discloses all the subject matter claimed by applicant with the exception of the limitation stated in claim 3, i.e., a storage pocket; and the limitation stated in claim 4, i.e., a pocket flap.

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With respect to the limitations stated in claims 3 and 4: Kartsotis discloses a pouch and flap assembly 22/28 for use in connection with wristwatch straps in order to provide a convenient storage receptacle for small objects. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add the pouch and flap assembly, as taught by Kartsotis, to the circular band, as taught by Fletcher, in order to provide a convenient storage receptacle for small objects, as already suggested by Kartsotis.

Response to Arguments

5. Applicant's arguments filed May 12, 2003 have been fully considered but they are not persuasive. In regards to the cutouts residing entirely within the circular band as stated in claim 1, contrary to Applicant's belief the cutouts as previously indicated in graphic detail of Fletcher, do reside entirely within the circular band. With respect to Fletcher's wristband including additional structures not required by Applicant's wristband. Fletcher discloses the invention as claimed by Applicant. The fact that it discloses additional structure not claimed is irrelevant. Furthermore, the claim language does not exclude the presence of additional structures since the term "comprising" (line 1 of claim 1) is inclusive, i.e., open ended.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in the PTO-892 disclose related devices. Kohn, Matthias, Webb, Jr., Tully, Blauner et al., Chong and Cooper disclose timing devices incorporated with a holder or securing means.

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7. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Examiner Jeanne-Marguerite Goodwin whose telephone number is (703) 305-0264. The examiner can normally be reached on Monday-Friday (9am-6pm), alternate Fridays off. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7724. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



JMG
Aug. 25, 2003

DAVID MARTIN
SUPERVISORY PATENT EXAMINER
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